DOCKET NO.: 70332-4/US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ghildyal et al.

Application No.: 10/040,884

Group Art Unit: 1646

Filed: January 7, 2002

Examiner: Mertz

For: Human Receptor Tyrosine Kinase

Mail Stop Petitions
Director of the U. S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Petition Under 37 C.F.R. §1.181 to Withdraw an Improper Holding of Abandonment

Dear Sir:

Applicants hereby petition the Director for the withdrawal of an improper holding of abandonment in the above-noted application. Attached hereto is a copy of the Notice of Abandoment, mailed October 14, 2005. The Notice alleges that Applicants have failed to linely pay the required issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance. The Notice of Allowance was mailed February 10, 2005. Applicants paid the issue fee on May 5, 2005 via facsimile, with authorization for the Director to charge Deposit Account Number 26-0166. Applicants submit that the issue fee was timely paid, since May 5, 2005 is within the statutory period of three months from February 10, 2005. Copies of the Fee Transmittal, our internal facsimile transaction report, and the USPTO Auto-Reply Facsimilie Transmission sheet are attached.

In light of the circumstances described above, Applicants submit that the Notice of Abandoment was improperly issued. It is therefore respectfully requested that this holding of abandonment be withdrawn and that the patent should issue.



Facsimile

Please deliver to Examiner immediately.

Date: October 20, 2005

Fax No.:

703-308-5065

To:

Attention: Kendrick Spruill

Art Unit:

Appln. No.:

10/040,884

Filing Date:

01/07/2002

Docket No.:

Z70332-4 US

From:

Robin Quartin

No. of Pages:

(including this one)

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Certificate of Transmission under 37 CFR 1.8

I hereby certify that the following correspondence is being facsimile transmitted to

the United States Patent and Trademark office of

Fran Toutkaldjian
Typed or Printed Name

Attachments

Petition Under 37 C.F.R. §1.181 to Withdraw an Improper Holding of

Abandonment

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P. 03

DOCKET NO.: 70332-4/US PATENT APPLICATION **SERIAL NO.: 10/040,884 FILED: JANUARY 7, 2002**

Applicants do not believe that any fee is required for the submission of the present petition. However, any necessary fees may be charged to Deposit Account Number 26-0166. If a phone call may be helpful to expedite this matter, the Office may contact Applicants' undersigned attorney at 302-885-9129.

Respectfully submitted,

Date: Oct. 20, 2005

Robin S. Quartin, Ph.D. Registration No. 45,028 (302) 885-9129





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Tradomark Office Address: COMMISSIONER FOR PATENTS P.O. DON 1450 Alexandria, Verpinia 22313-1450 Browningpagen

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO		
10/040,884	01/07/2002	Namit Ghildyel	70332-4/US	1513		
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WILMINGT	ON, DE 19850-5437		1646			
			DATE MAILED: 10/14/200	5		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) 10/040,884 Ghildyal Notice of Abandonment Examiner Art Unit Mertz 1646 The MAILING DATE of this communication appears on the cover sheet with the correspondence address— This application is abandoned in view of: 1. Applicant's failure to timely file a proper reply to the Office letter mailed on (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on (b) 🛄 A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114). (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the nonfinal rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below). (d) No reply has been received. 2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85). (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85). (b) The submitted fee of \$____ is insufficient. A balance of \$____ is due. The issue fee required by 37 CFR 1.18 is \$____. The publication fee, if required by 37 CFR 1.18(d), is \$____. (c) \(\sum \) The issue fee and publication fee, if applicable, has not been received. 3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37). (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply. (b) No corrected drawings have been received. 4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants. 5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application. 6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims. 7. The reason(s) below: Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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